



DIAR 60-20
November 30, 1979
NUMBER 5240.1

Department of Defense Directive

USD(P)

SUBJECT Activities of DoD Intelligence Components that
Affect U.S. Persons

References: (a) Executive Order 12036, "United States Intelligence Activities," January 24, 1978
(b) Foreign Intelligence Surveillance Act of 1978, Public Law No. 95-511
(c) Presidential Directive/NSC-9, March 30, 1977
(d) DoD Directive 5025.1, "Department of Defense Directives System," November 18, 1977

A. PURPOSE

1. This Directive implements references (a) and (b). It provides the authority under which DoD intelligence components may collect, store, or disseminate information concerning U.S. persons.

2. Procedures previously approved by the Attorney General for use by DoD intelligence components are hereby superseded, except those procedures approved under reference (c).

3. This Directive authorizes the publication of DoD 5240.1-R and DoD TS-5240.1-1-R, in accordance with reference (d).

B. APPLICABILITY AND SCOPE

1. The provisions of this Directive apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components").

2. Its provisions encompass all intelligence components within DoD Components, and govern all activities undertaken by such components that involve the collection, storage, and dissemination of information concerning U.S. persons.

3. This Directive does not apply to law enforcement activities carried out by such intelligence components.

C. DEFINITIONS

Terms used in this Directive are defined as follows:

ENCLOSURE 1

1. Intelligence. Foreign intelligence and counterintelligence.

2. Foreign intelligence. Information relating to the capabilities, intentions, and activities of foreign powers, organizations, or persons, but not including counterintelligence except for information on international terrorist activities.

3. Counterintelligence. Information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, international terrorist activities, or assassinations conducted for or on behalf of foreign powers, organizations, or persons, but not including personnel, physical, document, or communications security programs.

4. DoD intelligence components include the following organizations:

- a. The National Security Agency/Central Security Service.
- b. The Defense Intelligence Agency.
- c. The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs.
- d. The Assistant Chief of Staff for Intelligence, Army General Staff.
- e. The Office of Naval Intelligence.
- f. The Assistant Chief of Staff for Intelligence, Air Staff.
- g. The Army Intelligence and Security Command.
- h. The Naval Intelligence Command.
- i. The Air Force Intelligence Service.
- j. The counterintelligence elements of the Naval Investigative Service.
- k. The counterintelligence elements of the Air Force Office of Special Investigations.
- l. The 650th Military Intelligence Group, SHAPE.
- m. The intelligence units of the Military Departments that support Unified or Specified Commands.

5. United States person. A citizen of the United States, an alien lawfully admitted for a permanent residence, an unincorporated association organized in the United States or substantially composed of U.S. citizens or aliens admitted for permanent residence, or a corporation incorporated in the United States.

D. POLICY

1. It is the policy of the Department of Defense that DoD intelligence activities that involve U.S. persons take account of the paramount importance of the protection of the constitutional rights and privacy of the American people. In approving activities under the procedures issued to implement this Directive, responsible officials shall ensure that information concerning U.S. persons is gathered by the least intrusive means possible.

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2. E.O. 12036 (reference (a)) requires that the Department of Defense promulgate procedures to carry out certain kinds of intelligence activities and to govern use of certain information-gathering techniques. Procedures that require approval by the Attorney General have been submitted and approved in accordance with reference (a). These procedures, along with additional implementing procedures that do not require Attorney General approval, are contained in DoD 5240.1-R and DoD TS-5240.1-1-R, the issuance of which is authorized by this Directive.

3. The procedures in these DoD regulations contain restrictions and prohibitions on actions by or on behalf of DoD intelligence components. These restrictions and prohibitions are to be interpreted strictly. No intelligence component may request or encourage, directly or indirectly, any person, organization, or government agency to undertake activities restricted or prohibited by these procedures.

4. Violations of references (a) or (b), of this Directive, or of the regulations issued by this Directive, whether intentional or unintentional, shall be reported promptly to an inspector general or general counsel, who has responsibility for the DoD intelligence component where the violation occurred, or to the Inspector General for Defense Intelligence. Prompt reporting will help curb errors, correct misinterpretations of the governing directives, eliminate or prevent activities that are illegal, and strengthen any oversight within the DoD system.

5. The procedures contained in DoD 5240.1-R and DoD TS-5240.1-1-R do not authorize every DoD intelligence component to engage in every intelligence activity regulated therein. Authority to employ such procedures shall be limited to those necessary to perform the mission assigned to each component.

E. RESPONSIBILITIES

1. Heads of DoD intelligence components shall ensure that the requirements of this Directive and of the regulations issued thereunder are followed.

2. The Inspector General for Defense Intelligence shall:

a. Provide a central focal point for contact with and reporting to the Intelligence Oversight Board.

b. Forward reports by general counsels and inspectors general to the Intelligence Oversight Board with appropriate information or comments.

3. The General Counsel of the Department of Defense (GC(DoD)) shall:

a. Provide a central focal point for contact with and reporting to the Attorney General.

b. Forward requests for Attorney General approval to the Attorney General.

c. Interpret this Directive and the DoD regulations issued thereunder, E.O. 12036 (reference (a)), and the Foreign Intelligence Surveillance Act (reference (b)).

d. Consult with the Attorney General when significant new legal issues are involved.

4. The general counsel and inspector general with responsibilities for each intelligence component shall:

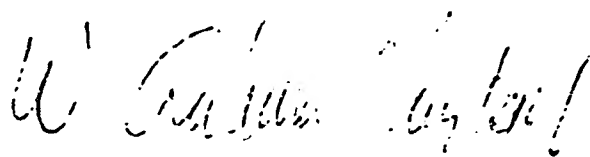
a. Monitor the oversight system to detect and prevent violations of Executive Order 12036 (reference (a)), this Directive, and the regulations issued thereunder.

b. Forward reports of activities that raise questions of illegality or impropriety to the Inspector General for Defense Intelligence, and provide other reports or information that the Inspector General for Defense Intelligence requires.

5. Heads of DoD Components shall ensure that the provisions of this Directive and the DoD regulations issued pursuant thereto are implemented within their respective organizations.

F. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward one copy of the implementing documents to the General Counsel, DoD, and the Deputy Under Secretary of Defense (Policy Review) within 120 days.



W. Graham Claytor, Jr.
Deputy Secretary of Defense